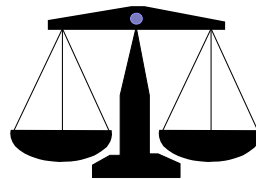


CITY OF CINCINNATI



Seventh Status Report to the Independent Monitor

February 12, 2004



Cincinnati Police Department

Thomas H. Streicher, Jr., Police Chief

S. Gregory Baker, Executive Manager of Police Relations
Police Relations Section

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I. INTRODUCTION

In April 2001, the Mayor of Cincinnati, and other interested persons within the City, requested the United States Department of Justice (DOJ) to conduct a review of the Cincinnati Police Department's (CPD) policies and procedures, specifically those that related to the uses of force. This request indicated the City's commitment to minimizing the risk of excessive use of force in the CPD and to promoting police integrity. In response to these requests, the DOJ launched an investigation pursuant to authority granted under 42 U.S.C. 14141, the Violent Crime Control and Law Enforcement Act of 1994.

The DOJ's investigation, conducted with the full cooperation of the City, included extensive interviews with City and CPD officials, CPD officers, leaders of the Fraternal Order of Police (FOP) and the African-American police officers' association (Sentinels), community members and civil rights organization representatives.

At the close of the investigation, which lasted approximately one year, the DOJ determined that the jurisdictional requirements of 42 U.S.C. 14141 were sufficiently satisfied to permit the Parties to enter into the **Memorandum of Agreement (MOA)**. As a result of the City's and the CPD's high level of voluntary cooperation and willingness to implement meaningful change, the DOJ believed the MOA, rather than contested litigation, represented the best opportunity to address the DOJ's concerns. On April 11, 2002, history was made in the City of Cincinnati. The City of Cincinnati and the United States Department of Justice entered into the landmark Agreement.¹

At the same time, representatives for the City, the Cincinnati Black United Front (CBUF), the American Civil Liberties Union of Ohio (ACLU), and the Fraternal Order of Police (FOP) executed the **Collaborative Agreement (CA)**. Brought about in part by a series of legal actions citing patterns of discrimination by police, this latter Agreement also served as an alternative to court litigation. Under this Agreement the Federal District Court introduced a process where various stakeholders in the community could examine the broader social conflicts in the City by gathering the views of as many citizens as possible on improving the relationship between police officers and the community. Through the distribution of questionnaires and a series of public meetings involving different segments of the community, the following goals became the cornerstones of the Collaborative Agreement:

1. Police officers and community members will become proactive partners in community problem solving.
2. Police officers and community members will build relationships of respect, cooperation, and trust within and between the police and the citizens.

¹ Neither the City's entry into this Agreement, nor its decision to implement changes in CPD policies and procedures is an admission by the City, the CPD, or any officer or employee of either, that any of them have engaged in any unconstitutional, illegal, or otherwise improper activities or conduct.

3. Police officers and community members will work to improve education, oversight, monitoring, hiring practices, and accountability of the Cincinnati Police Department.
4. Police officers and community members will ensure fair, equitable, and courteous treatment for all by members of the police department.
5. Police officers and community members will create methods to establish the public's understanding of police policies and procedures and to recognize exceptional service provided by members of the police department.

Implementation of both Agreements will not only reform police practice, but will enhance trust, communication, and cooperation between the police and the community. The settlements have fostered a union that has motivated all segments of the community to come together and focus on building the positive and productive relations necessary to maintain a vibrant city core and surrounding metropolitan area. The City of Cincinnati is enthusiastic and committed to this endeavor and has already begun initiatives to involve virtually all City departments in the process.

The two Agreements will be overseen by an Independent Monitor. Consistent with the consensus decision-making process incorporated in the collaborative process, all collaborative partners unanimously selected the independent monitor.

GENERAL COMMENTS

On January 15, 2004, the Monitor issued the Independent Monitor's Fourth Report. The Report noted some areas in which the CPD had fully complied with the MOA, and noted other areas which still require improvement. CPD wants to make special note that this particular report marks one year under the Independent Monitor. This Report takes a look at CPD activity during the fourth quarter of 2003 and advises the Monitor as to the progress that CPD has made. CPD has used the Monitor's last status report as a basis to direct its activities in attempt to achieve substantial compliance.

CPD notes that after over one year of interaction with the Monitoring Team, CPD has had difficulty in determining the standards used by the Monitor to assess compliance in various areas of the Agreement. Once CPD moved from revising policies and procedures to comply with the MOA, documenting and demonstrating police officer's performance consistent with approved policies and procedures to the satisfaction of the Monitor has proved to be a greater challenge. As a result, forms used to capture information to document compliance have been changed at the Monitor's suggestion several times. In addition, CPD is routinely asked to forward tremendous volumes of documentation, conduct and provide findings on a number of research projects, and then retrieve, analyze, and forward data from a myriad of sources. Already operating with limited resources, CPD constantly struggles to prevent this added burden from interfering with the overall mission of the department which is to provide quality police service to the community.

To this point, CPD believes these endeavors have done little to positively impact upon a consistent compliance stature. In addition to being required by MOA ¶102, the quarterly status report process appears to have been used as the primary vehicle for the point-counterpoint compliance debate. CPD contends the process can be improved. For example, the dialogue held between CPD Command Staff and members of the Monitoring Team during recent site visits has been a much more productive process than the mere exchange of the status reports. To that end, CPD hopes the Monitoring Team will build on the three major ideas expressed in the last such meeting held during the recent site visit on January 21, 2004:

- The Monitor and Command Staff will continue to clarify issues through the monthly meeting process.
- The Monitor will work with CPD to establish some concrete deliverables that will define compliance for each area of the MOA.
- For those administrative reports determined by the Monitor as having deficiencies, CPD has asked that the specific reports be returned for review and follow up actions.

If these goals are accomplished, CPD will continue to use the status reporting process to keep the Monitor and the community informed as to quarterly progress.

II. GENERAL POLICIES

A. Mental Health Response Team (MHRT)

The MOA's requirements with regard to the MHRT are located at paragraph 10.

Monitor's Previous Assessment

Although the Monitor concluded that CPD has complied with the provisions of the MOA, the report makes the following recommendations:

- Additional officers should receive MHRT training to improve CPD's performance in dealing with mentally ill subjects.
- The City should work with Hamilton County and the Mental Health Board to find funding for additional Mobile Crisis Unit staff. The increased staff would then be able to assist in other districts or allow the program hours to expand beyond normal business hours.
- CPD to finalize and conduct refresher training for the current MHRT officers.

Status Update

- *Training*
CPD is in the process of developing a contract with Mental Health Associates to conduct recertification training for the existing MHRT officers. Once this process is completed, the Training Section has proposed the following tentative schedule of training:

2004

4 In-Service Training Sessions for existing MHRT Officers
1 New MHRT Training Class – Approximately 30 Officers

2005

5 In-Service Training Sessions for existing MHRT Officers.

In the event that members of the Monitoring Team wish to attend, the Training Section will forward the final training schedule.

- *MHRT Availability*
CPD continues to track the number of MHRT officers deployed on a daily basis. The tracking process allows CPD to take a look at MHRT staffing levels by shift, district, and department-wide. According to the October, November, and December staffing reports, CPD was able to provide consistent MHRT service. The MHRT staffing reports are included in Appendix Item 1.
- *MHRT Officer Dispatch Summary*
Effective May 1, 2003, Police Communications Section began to record the dispatch disposition of MHRT officers to all calls involving suspected mentally ill individuals. When dispatching these calls, the dispatcher will make an entry into a designated field for all MHRT calls, indicating one of the following dispositions:

MHD – A MHRT unit was dispatched to the call

MHNA – A MHRT unit was not dispatched because all MHRT units city-wide were busy.

MHNW – There were no MHRT units working in the city.

During this reporting period, CPD received 1063 calls involving mentally ill persons. In 832 of those instances, MHRT officers were dispatched to handle the situation. For the months of October, November, and December, there were only 15 instances where an MHRT officer was not available for dispatch and in no instance in which a MHRT officer was not working. A monthly analysis of these calls is included in Appendix Item 2.

➤ **Mobile Crisis Team Workers**

The Psychiatric Emergency Services Department of University Hospital has established a partnership with CPD that has enabled Mobile Crisis Team personnel to work from and in conjunction with the police districts. Currently, the program operates in Districts One and Five. Although the Mobile Crisis Team members are available to assist police personnel in the field, their primary role is to follow up on referrals for those individuals involved in mental health crisis situations. The Mobile Crisis worker will typically make contact with the individuals, conduct an assessment, and make a determination as to the level of psychiatric intervention necessary. Although CPD has certainly benefited from this collaboration, the commitment of additional resources necessary to expand the program remains outside the ability or scope of CPD.

B. Foot Pursuit

The provisions of the MOA related to foot pursuit are located in paragraph 11.

Monitor's Previous Assessment

The Monitor found the foot pursuit policy to be in compliance with the MOA but found CPD overall to be in partial compliance for the following reason:

- Review of investigations in which there was a foot pursuit indicated that supervisors in some cases have evaluated the tactical soundness of the foot pursuit, while in others, there appeared to be no review.

Status Update

The MOA required CPD to develop a foot pursuit policy which includes provisions outlined in MOA paragraph 11. At the request of the Monitor, CPD agreed to adopt the supervisory review process for those incidents involving foot pursuits. During this quarter, CPD has again reviewed this process with supervisory personnel:

- As part of the Management Training for supervisors held in the fall of 2003, the Training Section included a block of instruction titled Use of Force, MOA Policy, and Incident Management. The training focused on the various components to force incident investigations:

- I. Officer Safety and Mission Success
- II. Auditing Conduct: Investigation, Documentation, and Reporting
- III. Investigation Standards
- IV. Specific MOA Reporting Requirements
- V. The Role of the Auditing Function

The supervisory review process for foot pursuits was emphasized during this training. The curriculum for this segment of the training is included in Appendix Item 21.

Appendix Information (Document Description – Exhibit Number)

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| • MHRT Dispatch Summary | 2 |
| • Management Training 2004 – Use of Force, MOA Policy, and Incident Management | 21 |

III. USE OF FORCE POLICY

A. General Use of Force Policies

The MOA's requirements pertaining to use of force are located in paragraphs 12 and 13.

Monitor's Previous Assessment

The Monitor concluded CPD's current Use of Force policy submitted on July 29, 2003 includes all the changes agreed upon by CPD and the Department of Justice. CPD is in the process of revising the policy to accommodate the deployment of the X26 Taser. Once revised, the policy will be sent to the Monitoring Team, DOJ and the Collaborative Partners for review.

Status Update

Drafts of the revised Use of Force policy were provided to DOJ and the Monitor during the January site visit. Additional language regarding restrictions on the use of the Taser are being included.

Use of Force statistics for the current reporting period have been included in Appendix Item 3.

B. Chemical Spray

MOA provisions pertaining to chemical spray are found at paragraphs 14, 15 and 16.

Monitor's Previous Assessment

In the report the Monitor indicated CPD's chemical irritant policy is in compliance with the MOA. Upon review of sample investigations involving the use of chemical irritant, the Monitoring Team raised question involving the following deployment issues:

- In some instances, verbalization before deployment is hard to discern when reviewing the incident reports.
- In the case of restrained individuals, it has been difficult for the Monitoring Team to determine if officers were using all the equipment available to restrain prisoners in the rear of the police cruisers. Along those lines, the Monitor has questioned whether the use of chemical irritant was intended to stop disorderly prisoners from damaging the police equipment or to prevent the prisoners harming themselves by kicking at the windows or partitions. Further, the Monitor has recommended additional discussions between CPD and DOJ to clarify the proper use of chemical irritant in these situations.

Status Update

- At the request of the Monitor, CPD revised the Chemical Irritant report to add a section in which to enter the officer(s) degree of verbalization prior to deployment. As anticipated in the MOA, there are situations in which circumstances are such that the issuance of the warning may not be possible. In those instances, CPD will make an effort to document the degree of exigency involved.
- There are also occasions in which officers are required to transport extremely disorderly and belligerent individuals. In some situations the prisoner will suddenly become violent after being placed in the rear of the cruiser. Other times, the behavior is evident from the time of the initial contact. In the case of the latter, the degree of resistance displayed by the offender will often dictate whether the transporting officer can safely apply restraint equipment. If the restraints cannot be applied or should the prisoner somehow defeat the restraints and begins kicking or thrashing body parts against any of the cruiser components, CPD believes that the potential for injury is significant. Accordingly, CPD maintains the use of irritant in these cases is clearly permissible under the MOA and feels the issue needs no further clarification.
- Chemical irritant deployment has been summarized in Appendix Items 4, 5, 6, 7, and 8.

C. Canines

The MOA provisions relating to canine policy are located in paragraph 20.

Monitor's Previous Assessment

The Monitor found that the current CPD Canine Policy meets the MOA provisions. After review of canine bite reports, the Monitor raised the following issues:

- Have the off-leash deployments been limited to commercial building searches, offenses of violence, or situations where the subject was believed to be armed?
- Were canine announcements voiced before deployment?
- Was authorization from supervisor obtained?
- Thoroughness of investigations
- Were bites consistent with MOA provisions?

Status Update

- During this reporting period, CPD had only two incidents involving a canine bite, one of which was an off lead deployment. In that case the dog was released from the lead to conduct a search of a commercial building. In the other incident, the dog remained on lead to locate an individual who had been operating a stolen vehicle and fled on foot.
- In regard to the required announcement prior to canine deployment, CPD has included a section on the report to record the degree of verbalization.

The report asks the supervisor if a warning was issued, the number of warnings issued, and the elapsed time between the last warning and the canine bite. Through the command review process, CPD will review the circumstances for those deployments in which the warnings were not issued and ask investigating supervisors to document those reasons. In the case of the two canine bites this quarter, the issuance of the warnings was indeed documented.

- The Monitor indicated that in one of the incidents reviewed, the supervisor gave verbal authorization to deploy the canine but failed to respond to the deployment site. Consistent with the review process the supervisor was found to be negligent and subsequently counseled. For the remainder of the incident reports reviewed the authorizing supervisor did respond to the scene. Accordingly, CPD sees no reason to further address this particular issue.
- As far as the timeliness of the canine bite review process, CPD is working with the Canine Unit to expedite the process for future reports.

During this reporting period, canines were deployed in connection with 176 incidents. As a result, 25 individuals were located with only 2 of those persons being bitten by the dog. This equates to a 8% unit bite ratio. The statistics generated by the Canine Deployment Database have been included in Appendix Items 9 and 10.

The canine bite ratio reports generated pursuant to MOA paragraph 20 are included in Appendix Item 11. These reports examine the following six-month periods:

May 1, 2003 – October 31, 2003
June 1, 2003 – November 30, 2003
July 1, 2003 – December 31, 2003

D. Beanbag Shotguns / 40mm Foam Rounds

The MOA provisions relating to beanbag shotguns and 40mm foam rounds are located in paragraphs 21, 22 and 23.

Monitor's Previous Assessment

There were no incidents involving the use of the beanbag shotgun during the third quarter. As a result of one incident reviewed from the second quarter, the Monitor expressed concerns regarding the level of training provided on the new policy.

Status Update

During this reporting period, there were no beanbag shotgun or forty millimeter foam round deployments. The Pepperball Launcher, however, was used two times during this period. Pepperball Launcher deployment has been summarized in Table 24-1, which is included as Appendix Item 12.

To accommodate the training concerns expressed by the Monitor, CPD will highlight the policy changes through the Roll Call Training Program and by entry into the Department Staff Notes.

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• Table 24-1 Special Weapon Deployment Summary	12

IV. INCIDENT DOCUMENTATION, INVESTIGATION & REVIEW

A. Documentation

The MOA provisions relating to documentation are located in paragraph 24.

Monitor's Previous Assessment

The Monitor found CPD to be out of compliance with the force incident reporting provisions. Specifically, the Monitor cited the following CPD reporting practices:

➤ **Form 18NC – Non-Compliant Suspect Arrestee Report**

The Monitor believes the report needs revisions to meet the MOA requirements. The first recommendation is the addition of a section to document the supervisor notification process. Second, the report must include the officer's narrative describing the events and the degree of force used. And finally, the report should capture recommendations made during the supervisory review process.

➤ **Takedowns with Injury**

According to the Monitor's assessment, CPD is required to execute the highest level of documentation for those incidents involving takedowns that also produce suspect injury. Currently CPD is documenting these incidents on the Injury to Prisoner Report. Audio taped statements are not being conducted for these investigations.

Status Update

- In a meeting with the Monitoring Team on January 21, 2004, CPD agreed to review the Non-compliant Suspect/Arrestee Report (Form 18NC). During this process, CPD will attempt to make revisions that will capture the information sought by the Monitoring Team. This was a new report created because of the MOA. Although the report is not currently entered into CPD's existing force database, they will be part of the Employee Tracking Solution.
- In that same meeting and again at the All Parties Meeting on January 22, 2004, the City agreed to initiate dialogue with the Department of Justice to gain some clarification of the Use of Force reporting requirements. The City also agreed to forward copies of the documentation relative to this request to the Collaborative Partners. Even though these incidents are being reported on the Form 18I, Injury to Prisoner Report, the report captures much of the same information as the Form 18F, Use of Force Report. Again, the issue for CPD is the audio taped interview requirement.

B. Investigation

The MOA provisions relating to investigation are located in paragraphs 26, 27, 28, 29, 30, and 31.

Monitor's Previous Assessment

The Monitor found CPD's policies regarding the investigation of use of force incidents comply with the MOA. After reviewing sample use of force investigations, the Monitoring Team recorded the following observations

- During the interviewing process the Team noted that some supervisors did an excellent job of eliciting relevant information, whereas, in other cases some did not. Based on their observations, the Monitoring Team concluded the need for training on conducting force investigations.
- During this period, there were only a few incidents in which the investigating supervisor was either involved or authorized the force. There were also a few incidents in which there was no command review by a Lieutenant or higher ranking officer.

Status Update

- In regard to the use of force training recommendation, CPD has provided the Monitor with the materials used for the 2004 Annual In-Service Training for supervisors. The training focused on the supervisor's goals and responsibilities when conducting these investigations. The training also highlighted the MOA force reporting requirements and policy changes.
- For those reports identified as either not being reviewed by a supervisor, or where the investigating supervisor authorized the force, CPD has asked the Monitoring Team to forward those specific examples for additional follow up.

C. Review of Critical Firearms Discharges

The relevant provisions of the MOA are located at paragraphs 32, 33 and 34.

Monitor's Previous Assessment

CPD's policy on critical firearms discharges complies with the MOA. In previous reports, the Monitor also concluded that the Board reports are in compliance with the MOA requirements regarding firearms discharge investigations and FDB reports.

Status Update

During this reporting period, CPD has had only one incident involving a critical firearm discharge. The incident has not yet cleared the administrative review process. Upon completion, the Board will begin its review.

V. CITIZEN COMPLAINT PROCESS

A. Openness of the Complaint Process

Paragraphs 35 and 36 of the MOA deal with the openness of the complaint process.

Monitor's Previous Assessment

The Monitoring Team reviewed a sample of citizen complaints this quarter and found no discouragement or barriers for citizens making those complaints. The Monitor did express concern of the amount of time it took for CPD to forward complaints to CCA.

Status Update

- To achieve a more timely forwarding of complaints, CPD has attached CCA to the police interdepartmental mailing system. It is hoped that this modification will assist CPD in meeting the MOA time limitations.

B. Means of Filing and Tracking Complaints

Paragraphs 37 and 38 of the MOA deal with the tracking and filing of complaints.

Monitor's Previous Assessment

Nothing Noted

Status Update

.Nothing Noted

C. Investigation of Complaints

Paragraphs 39, 40, 41, 42, 43, 44 and 45 of the MOA deal with the investigation of complaints.

Monitor's Previous Assessment

As noted by the Monitor, CPD forwards those complaints associated with incidents involving force to IIS for review. After reviewing a sample of CCRP and IIS complaints, the Monitor found that in most investigations the involved officers were identified and interviewed. In addition, in several instances the investigation revealed misconduct beyond the allegations contained in the complaint. From the fourteen investigations reviewed, the Monitor raised several issues:

- In two of the investigations, potential witnesses were not interviewed.
- In one of the incidents handled through CCRP, the supervisor conducting the investigation was involved in the incident being investigated.

- The amount of time involved in the assignment and closure of complaints.

Status Update

- For those investigations in question at the January 22, 2004 meeting between the Monitor and CPD Command Staff, CPD asked the Monitoring Team to identify those specific cases and return the related reports to CPD for additional review and if necessary, follow up action.
- In respect to the investigative time constraints, the issue for IIS often becomes one of available resources and prioritization of important/controversial cases. For those cases, closures are dependent upon the work load and the number of complex cases assigned to the investigators. As such, IIS must prioritize case load to manage the resource issue. In other instances, the case may be detailed enough that additional investigative time is warranted. A summary which outlines the length of investigative time associated with those cases closed by IIS during this quarter is included in Appendix Item 13.
- For CCRP cases, the reasons for the delays are not easily apparent. In some instances CPD believes delays are caused by a period of inaction by the complainant in bringing the allegations forward. A review of those cases cleared through CCRP during the fourth quarter of 2003 indicates that 63 of the 78 cases cleared were closed within ninety days. In two other cases, the date the complaint was received is not entered and therefore it is unknown if the case was cleared within ninety days. A summary which outlines the length of investigative time associated with those cases closed by CCRP during this quarter is included in Appendix Item 14.

D. Adjudication of Complaints

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with the MOA provisions relating to the adjudication of investigations but has again expressed concerns about discrimination complaints being assigned to CCRP instead of IIS as required by the MOA.

Status Update

During the fourth quarter of 2003, 70 cases involving 84 allegations were investigated and closed through CCRP with the following dispositions:

Sustained	15
Sustained Other	5
Exonerated	15
Not Sustained	18
Unfounded	30
Case referred to IIS	1

A total of 63 cases involving 99 allegations were closed as a result of those investigations assigned to IIS. Those cases were closed as follows:

Sustained	38
Sustained Other	1
Exonerated	3
Not Sustained	28
Unfounded	29

Additionally, IIS reviewed 8 complaints associated with use of force investigations during this period. As a result of the review process, five were cleared with a not sustained finding and three were determined to be unfounded.

- In regard to complaints involving “discrimination”, CPD has asked the Monitor to consider a more specific definition of the term. CPD receives a number of complaints where allegations of discrimination merely reflect those convictions held by the complainant about police in general or the allegation is not coupled with a specific police activity. CPD believes some of these complaints are best resolved by CCRP. In these cases the meeting that occurs between the investigator, the involved officer, and the complaints can resolve misconceptions and inferences drawn for the event in question. Accordingly, CPD has agreed to frame a more narrow definition of discrimination. Once completed, the proposed definition will be forwarded to the Collaborative Partners for review.

During this quarter, CPD received 134 letters recognizing outstanding officer performance. An additional 41 reports of favorable officer conduct were also received during this period.

E. CCA

Monitor’s Previous Assessment

The Monitor requested CCA to provide investigative files for 14 of the cases closed. As of the time the Monitor’s report was released, the Monitoring Team had only received 4 of the case files. As a result the Monitor indicated that evaluation in this area will be summarized in his next report.

Status Update

CPD has been in contact with CCA regarding the 10 remaining cases files. CPD understands these files have since been shipped to the Monitoring Team for review.

Appendix Information (Document Description – Exhibit Number)

IIS Case Closure Summary	13
CCRP Case Closure Summary	14

VI. Management and Supervision

A. Risk Management and Supervision

Paragraphs 57-66 of the MOA are relevant to risk management and supervision.

Monitor's Previous Assessment

The Monitor has opted to delay evaluation in this area pursuant to discussions between DOJ and CPD. As a result of those conversations, CPD revised the implementation table based on the development of the ETS Protocol and the Data Input Plan.

Status Update

The revised ETS implementation schedule indicated CPD would submit the Protocol and the Data Input Plan to the Monitor and the Department of Justice by December 31, 2003. As noted by the Monitor, CPD had to work with the vendor; Megg Associates to review and make corrections to the data fields that comprise the system's various operating modules. The ETS Protocol and the Data Input Plan are dependent on the correct operation of these modules and therefore development of these items was delayed. At the All Parties Meeting held on January 22, 2004, the revised version of the ETS Protocol was shared with the Collaborative Partners, DOJ and the Monitoring Team. During the Monitor's site visit, a demonstration of the ETS was conducted at the CPD Information Technology Management Section facility. Upon reviewing the information learned from the demonstration and the information provided in the Protocol, the Monitor and DOJ will forward any comments or recommendation back to CPD. The substance of that feedback will determine how CPD and the vendor will proceed. Should the protocol be approved, the vendor will simply proceed with the Data Input Plan and conversion of the data from the existing CPD databases. If modifications are requested, implementation will again be delayed. In any case, CPD still hopes to achieve total implementation in June 2004.

B. Audit Procedures

Paragraphs 67-69 of the MOA deal with Audit Procedures.

Monitor's Previous Assessment

The Monitor found CPD to be in compliance with these provisions.

Status Update

The Inspections Section completed the audit of those complaints resolved through CCRP for the fourth quarter of 2003. The audit reviewed a random sample of CCRP case closures and focused on the following areas:

- Checking the CCRP computer database to ensure complaints were logged and the proper documentation completed.

- Ensuring each district/section/unit had complaint and feedback forms assessable to the public.
- Ensuring the placement of complaint and feedback forms in Department vehicles.
- Ensuring the complainant was notified of the CCRP outcome, including whether corrective or disciplinary action was taken.

A summary of the audit was prepared on January 15, 2004 and is included in Appendix Item 15.

Also during this reporting period, Inspections Section completed its semi-annual audit of investigations handled by the Internal Investigations Section. The review looked at those cases cleared by IIS from June 1, 2003 through December 31, 2003. A summary of the audit was prepared on January 12, 2004 and is included in Appendix Item 16.

As noted by the Monitor, CPD has met with representatives from both the City and County Prosecutor's Offices to discuss individual and/or collective officer performance issues during the third quarter of 2003. Among the issues discussed was the need for training officers on current case law pertaining to the criminal charge of Obstructing Official business in addition to the differing legal standards between reasonable suspicion and probable cause. The requested training has been incorporated into the Legal Update portion of the 2004 In-service Training.

Due in part to scheduling conflicts and a lack of agenda items, the fourth quarter meeting was cancelled. Thus the meeting for the first quarter of 2004 was held on January 14th. The agenda from that meeting will be included and discussed in the next status report.

C. Video Cameras

MOA Paragraphs 70-72 deal with video camera requirements.

Monitor's Previous Assessment

The Monitor finds CPD to be in only partial compliance with these MOA provisions citing the following issues:

- Not all the cruisers are camera equipped.
- Upon quarterly review of Department investigations, there are instances in which the MVR equipment was either not working or not activated as required by CPD policy.
- There were a number of incidents in which chemical irritant was utilized for disorderly prisoners in the rear of police cruiser that was not captured by the MVR.

Status Update

- **Video Camera Implementation**
CPD has received funding in the amount of \$371,000 to purchase 62 Digital Video Data (DVD) units with the supporting hardware and equipment. The funding is in the form of a congressional line-item appropriation to the United States Department of Justice budget. CPD believes these units can be installed by the end of the first quarter of 2004. The Department is also working on finalizing funding and the development of a purchase order for the remaining 178 units required to digitally equip the entire cruiser fleet. CPD hopes to have those units purchased and installed by the end of 2004.
- **CPD Policy Requirements**
Although the Monitor raises the issue regarding mandatory activation of the MVR equipment, there is also an acknowledgement that in these instances CPD has sustained procedural violations for the involved officers. Therefore, it appears to CPD that no further action is warranted.
- **Transporting Violent Prisoners**
The MOA requires manual activation of MVR equipment “to the extent practical” when transporting violent prisoners. CPD will entertain discussions with the Monitor on practicality and expectations in regards to these specific incidents.

D. Police Communications Technology

MOA Paragraphs 73 and 74 relate to police communications technology.

Monitor’s Previous Assessment

The Monitor noted that the City continues to move forward in these areas.

Status Update

- **Radio Replacement – 800 MHz Project**
The City of Cincinnati has entered into a contract with Motorola to construct a digital, trunked, simulcast, narrowband 800 MHz radio communications system in full compliance with APCP Project 25 trunking requirements.

Motorola is still in the process of completing the infrastructure necessary to support the new system. The vendor is maintaining the construction timeline with the system projected to come on line during the third quarter of 2004.

Training on the new radio system will begin in early September 2004 just prior to the new radio system going on-line.

As indicated in the last status report, the City purchased the Radcliff Building at 2100 Radcliff Drive to relocate the Police and Fire Primary Communications Center. The location offers 18,000 square feet of office space and 21,000 square feet of warehouse space. The Communications Center will

occupy the second floor office space and the front portion of the warehouse after renovation is completed. Although construction meetings are still ongoing, Communications Center operations are expected to move from the 310 Ezzard Charles Drive site into the Radcliff facility in September or October of 2004. Other police and fire units will also occupy the building. During the third quarter of 2003, the Tactical Planning Unit and the Information Technology Management Section moved from the Spinney Building and into the first floor office space of the Radcliff facility.

- The vacation of space formerly occupied by the Tactical Planning Unit and Information Technology Management Section in the Spinney Field Building complex has allowed construction to begin for the Communications Section back-up site in the building. Construction at this site is currently underway with Motorola projected to install backroom equipment in January 2004. This site should be completed by June 2004 and be available for training purposes.
- **Emergency 911 Phone System Replacement**
Replacement of the current 911 Phone System with a state of the art computer based system is currently underway. The equipment has been shipped and is currently in storage awaiting installation into the Radcliff Building. Backroom hardware installation is projected to occur early in the third quarter of 2004.

Training on the new equipment will begin once occupancy of the Emergency 911 Operator portion of the Radcliff Building is permitted. Once Emergency 911 Operators are trained, call taking operations will be switched over to the Radcliff facility. It is anticipated that the switchover to the new phone system will occur in September of 2004.

- Communications Section continues to research CAD replacement technology. It is anticipated that the CAD RFP will be sent out in conjunction with the Police Department's Records Management System RFP during the first or second quarter of 2004. CAD replacement and switchover is expected to occur sometime in mid 2005.

E. Discipline and Promotional Policy

MOA Paragraphs 75-76 are relevant to discipline and promotional policy.

Monitor's Previous Assessment

To assess compliance with the MOA in this area, the Monitor has asked CPD to provide additional data for this evaluation.

Status Update

A University of Cincinnati research team has collected much of the information requested by the Monitor to be included in a study being conducted on the City's disciplinary system. CPD has obtained the results of this study and a copy has been included as Appendix Item 15. In addition, CPD will work with U.C. to obtain the data supporting the overall report.

Unfortunately, much of the additional information sought by the Monitoring Team can only be generated by the actual review of each individual case file. Although IIS and ITMS continue to work on a method to generate this information electronically, CPD anticipates that once on line, the Employee Tracking Solution will be able to readily provide this information. In the meantime, CPD will continue to provide the Monitoring Team with access to current electronic and hardcopy files so that the desired information can be obtained.

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VII. TRAINING

A. Use of Force – Management Oversight and Curriculum

MOA Paragraphs 77 – 87 are relevant to management oversight of training and training curriculum.

Monitor's Previous Assessment

The report indicates that the Monitoring Team did not attend or evaluate use of force training sessions during the fourth quarter of 2003. Consequently, the team has expressed intent to conduct an extensive review of this training in the first quarter of 2004.

Status Update

The Training Committee met on December 1, 2003. Among the items discussed were:

- Specific details surrounding deployment and training issues associated with the implementation of the X26 taser.
- Critical incident review of the police intervention death of Andre Sherrer.
- Review of current and future training curriculum.

A copy of the Training committee minutes is included in Appendix Item 18.

A total of 627 officers attended the In-Service Training for sworn personnel. The training curriculum included instruction in the following areas:

- Critical Incident Review
This segment included a critical review of the police intervention death of Andre Sherrer that occurred in February of 2003.
- Legal Issue Update
Mr. Terry Cosgrove, Police Department Chief Counsel, has reviewed changes resulting from recent legislation and judicial decisions. Students also review the proper application of charges such as Obstructing Official Business and Resisting Arrest.
- Crime Scene Preservation
Members from CPD's Criminal Investigation Section review crime scene investigation and techniques. Among the topics included were securing different types of crime scenes, evidence collection, and the proper interviewing of witnesses.
- Tactical Skills
Use of force and decision making skills were reviewed through various tactical exercises.

The agenda from this training has been included in Appendix Item 19.

In addition to the Police Recruit Training offered during this reporting quarter, the Training Section has sponsored 89 additional training courses. The courses involved 21,739 hours of training and the instruction of 2,822 students. The Department Training Records for this period are included in Appendix Item 20.

B. Handling Citizen Complaints

MOA Paragraph 82 is relevant to citizen complaint training.

Monitor's Previous Assessment

As with the use of force training, the Monitoring Team has not evaluated training relative to the handling of citizen complaints. The Monitor indicates the team will make an effort to assess this training during future site visits.

Status Update

CPD has nothing additional to report.

C. Leadership/Command Accountability Training

Monitor's Previous Assessment

In his last report, the Monitor did not include observations relative to this provision.

Status Update

Leadership and accountability were both major themes in the four-hour training block presented by the Police Chief during Management Training in 2003. The lesson plan/summary on this program is available for review at the Police Academy and may be forwarded to the Monitor upon request.

D. Canine Training

MOA paragraph 84 is relevant to canine training

Monitor's Previous Assessment

Although the Monitor had nothing to report in this area, he expressed his desire to obtain additional information from DOJ and CPD on how other agencies use the handler controlled alert curriculum. Specifically, the Monitor cited the canine training program utilized by the Metropolitan Police Department in Washington D.C.

Status Update

In the past, CPD has attempted with little success to conduct efforts to better define the "handler controlled alert" terminology. To assist the Monitoring Team in this

regard, CPD will continue research in this area and provide the Monitor with its findings in the status report that summarizes activity in the first quarter of 2004

E. Scenario Based Training

MOA paragraph 85 is relevant to scenario-based training.

Monitor's Previous Assessment

The Monitor indicated CPD is in compliance with this provision. During future site visits, the Monitor will confirm ongoing compliance through on-site observations of the program.

Status Update

During the fourth quarter of 2004, CPD provided 1698.7 hours of Roll Call Training. Three new scenarios taken from CPD incidents were added to the library. Other areas reviewed include:

- Procedure 12.145 Critical Incident Response Plan
- Procedure 12.413 Enforcement of Court Orders
- Procedure 12.417 Hate Crimes
- Procedure 12.111 Police Interaction with Homeless Encampments
- Procedure 12.370 Problem Solving Process
- Procedure 12.136 Robbery Alarm Response
- Emergency Operation of Police Vehicles
- Tactical Patrol Guide
- Rules and Regulation for the Cincinnati Police Department
- Character Training and Reinforcement
- Pit Bull Ordinance
- Winter Driving Tips
- Carbon Monoxide Dangers

The Roll Call Training Program Calendars, scenarios, and summary for this quarter have been included in Appendix Item 21.

F. Revised Training Based on Review of Civil Lawsuits Pertaining to Officer Misconduct

MOA paragraph 86 is relevant to training based on civil lawsuits

Monitor's Previous Assessment

CPD is in compliance with these revisions.

Status Update

Beginning July 17, 2003 the Training Section initiated Management Training for supervisors, which included a four-hour training block of Civil Liability Training. The training was also included in the In-Service training for police officers and

police specialists beginning in September 2003. The training was presented by members of the City Law Department who have background in Section 42USC§1983 litigation in addition to extensive experience of working with law enforcement agencies. Using a combination of lecture and class participation through role-play scenarios, the training instructed supervisors and officers in the following topics:

- Civil vs. Criminal Liability
- Civil Case Procedures
- Origins of Liability
- Supervisory Liability
- Defense Theories
- How to Avoid Liability

During the fourth quarter, members of the City Law Department met with representatives from CPD to discuss recent legal actions brought against the City. One of the topics discussed was the City being able to prevail in a suit in which a police vehicle was involved in an auto accident. The issue centered around the definition on an emergency vehicle. Citing *Colbert v. City of Cleveland*, which essentially impacted the definition, CPD will review the reporting procedures for police vehicles involved in auto accidents and determine what modifications and corresponding training needs to be developed. A summary of the meeting is included in Appendix Item 22.

G. Orientation to the MOA

MOA paragraph 87 is relevant to MOA orientation training

Monitor's Previous Assessment

The Monitor indicated CPD is in compliance with this provision.

Status Update

As stated earlier in the report, the Management Training for supervisors held in the fall of 2003, the Training Section included a block of instruction titled Use of Force, MOA Policy, and Incident Management. The training focused on the various components to force incident investigations:

- Officer Safety and Mission Success
- Auditing Conduct: Investigation, Documentation, and Reporting
- Investigation Standards
- Specific MOA Reporting Requirements
- The Role of the Auditing Function

A copy of the core curriculum and agenda for this training is included in Appendix Item 23. Likewise, members of the Police Relations Section provided a block of instruction on the provisions of both the CA and the MOA at the In-Service Training held for 239 non-sworn CPD members. A copy of this agenda is included in as Appendix Item 24.

H. Field Training Officers

MOA Paragraphs 88-89 deal with the training of field training officers.

Monitor's Previous Assessment

Status Update

I. Firearms Training

MOA Paragraphs 90-91 are relevant to firearms training.

Monitor's Previous Assessment

The Monitor finds CPD to be in compliance with the Firearm training provisions of the MOA. The Monitor intends to confirm compliance through future site visits of the training. Specifically, the reviews will focus on:

- The review of training records
- Scenario and night training
- Evaluation criteria for firearms training and re-qualification certification

Status Update

During the fourth quarter, 537 officers attended Annual Firearms Qualifications Training at the Target Range.

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